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OCT 12 2006

Atty. Dkt. No. 061602-3200  
(NC31808US)

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

On August 4, 2006, the Examiner issued his fourth official action for the present application. This latest action, which is a nonfinal action, was issued after Applicant had submitted a June 6, 2006 Amendment and Reply.

In the most recent nonfinal action, the Examiner apparently withdrew his prior rejections and issued a new set of rejections. In particular, the Examiner rejected claims 15-21, 27, 29 and 34 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,757,712, issued to Bastian et al. Claims 23-24 were rejected under 35 U.S.C. §103(a) based upon Bastian et al. and in view of U.S. Patent No. 6,801,934, issued to Exanko. Lastly, claims 22, 28 and 30-33 were rejected based upon Bastian et al. and in view of "Official Notice."

Regarding the Examiner's rejections under 35 U.S.C. §102(e), Applicant traverses these rejections on a number of grounds. More particularly, Applicant submits that a number of features included in these claims cannot be found anywhere in Bastian.

As was discussed at length by Applicant in previous responses, the currently-pending independent claims discuss a system where, if access to a remote server is requested, the server first attempts to connect to the remote server via one wireless interface. If this wireless interface cannot establish a connection with the remote server, the server then attempts to connect to the remote server via an alternate wireless interface.

Bastian et al. teaches no such system. Instead, Bastian et al. teaches an aircraft-based system that simply permits communication with a base station via a particular interface, as discussed at column 7, lines 51-62, for example. As discussed in this section, Bastian et al. only teaches a system where information such as email is transmitted to a server, and at some later point in time, this information is transmitted to a base station:

Thus electronic mail sent from terminal 40a on board the aircraft is first forwarded to server 20 where it is stored. The server determines the appropriate time to initiate a data

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exchange with station 90. This can be when sufficient data is awaiting transmission from server 20, or when the time since the last exchange exceeds a time limit (15 minutes), or when station 90 signals to server 20 via communications service provider network 80 and radio 60. Any e-mail messages stored on server 20 since the previous connection was made are then transmitted to station 90. Station 90 forwards the or each e-mail message on to their eventual destinations Mail servers 195.

Importantly, however, Bastian et al. *never* discusses a system where a "backup" interface is used if a different interface is unable to establish a connection with the remote server. In fact, Bastian et al. explicitly teaches away from the need for such a system at column 16, lines 22, where the use of multiple, overlapping base stations are used so completely cover "major" airline routes with communication capabilities under the given interface. In such an environment, there is simply no need to include a second interface mechanism, as the first interface is always available to the server.

In the August 4, 2006 action, the Examiner asserted that column 7, line 14-column 8, line 32 and column 16, lines 6-61 teaches the features described in the pending independent claims. However, this is not the case. In no location do the cited passages, or any other portion of the reference, teach a system where, if access to a remote server is requested, the server first attempts to connect to a remote server via one wireless interface, and then moves to a different interface if the first interface is not available. Furthermore, the Examiner's own comments are completely at odds with the plain language of the independent claims. In particular, the Examiner's associated comments consisted of the language "Bastian discloses interface to access local content on the server and access remote content from remote server." (Emphasis Added). Importantly, however, the pending claims require that both interfaces to access content on a remote server, not a local server. As explicitly acknowledged by the Examiner, this is not the case in Bastian et al., and it is completely improper for the Examiner to rewrite the language of pending claims in such a manner by reading out the "remote server" phrase.

In light of the above, Applicant submits that no portion of Bastien et al. teaches or even suggests the use of multiple interfaces for connecting to a remote server, where one interface is used if the other is unable to establish a connection. For this reason, Applicant

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submits that the rejection of claims 15-21, 27, 29 and 34 under 35 U.S.C. §102(e) based upon Bastien et al. is wholly improper.

In addition to the above, it is also respectfully noted that independent claim 15 also describes the third wireless interface as providing a broadband connection. Although the Examiner has asserted that the connection in Bastien et al. is a broadband connection, there is no such teaching in Bastien et al., and Bastien et al. does not even mention the term "broadband" anywhere therein. With no such teaching of a broadband connection, the Examiner's rejection of independent claim 15, as well as its respective dependent claims, under 35 U.S.C. §102(e) is also improper.

Because Bastien et al. fails to include at least one element that is required in each of claims 15-21, 27, 29 and 34, Applicant requests that the Examiner's rejection of these claims under 35 U.S.C. §102(e) be withdrawn.

With regard to the Examiner's rejection of claims 22-24, 28 and 30-33 under 35 U.S.C. §103(a), Applicant submits that each of these claims is also patentable over the prior art for at least those reasons discussed above. In particular, because each of these claims is directly or indirectly dependent upon independent claims 15 or 27, Applicant submits that these claims are also allowable because the prior art completely fails to teach or even suggest a system where if access to a remote server is requested, the server first attempts to connect to a remote server via one wireless interface, and then moves to a different interface if the first interface is not available.

Lastly, the August 4, 2006 Action also included an Examiner's note that, although the Examiner cited specific portions of the relevant references in the rejections, other passages in the respective references may also be applicable. In response to this note, it is Applicant's position that no portion of the cited references teach the features discussed above. However, Applicant requests that the Examiner specifically cite all of the reference portions which support his rejections, as the failure to do so will only serve to further prolong the prosecution of the present application.

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In light of the number of actions which have already been issued in the present case, Applicant believes that a telephonic or in-person interview may be beneficial to the final resolution of this matter. Therefore, Applicant respectfully requests that the Examiner and the Examiner's supervisor contact the Attorneys for Applicant directly before any new Action is issued.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date OCTOBER 12, 2006By 

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